

MINUTE ITEM

40. WAIVER OF STATUTORY NOTICE AFFECTING ANNEXATION PROCEEDINGS OF THE CITY OF BELVEDERE, MARIN COUNTY - W.O. 2400.18, GEO.-MARIN CO.

After consideration of Calendar Item 25 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO EXECUTE AN APPROPRIATE WAIVER OF STATUTORY NOTICE AFFECTING THE CITY OF BELVEDERE'S ANNEXATION OF PORTIONS OF MIDDLE AND EAST CANALS, MARIN COUNTY.

Attachment

Calendar Item 25 (1 page)

CALENDAR ITEM

25.

WAIVER OF STATUTORY NOTICE AFFECTING ANNEXATION PROCEEDINGS OF THE CITY OF BELVEDERE, MARIN COUNTY - W.O. 2400.18.

On October 6, 1958, the City Council of the City of Belvedere adopted Resolution No. 867, which provided for the annexation of certain lands adjacent to the then southerly boundary of the City of Belvedere. Included within the proposed annexation were Middle and East Canals, Marin County, both of which are tide and submerged lands belonging to the State of California which were reserved from tideland lot sales made in the late 1800s.

Section 35313.1 of the Government Code, State of California, provides in part that

"When territory proposed to be annexed consists wholly or partly of tide or submerged lands owned by the State, the legislative body [of the annexing authority] shall determine the value of such tide or submerged lands for the purposes of this article. For the purpose of such determination, the State Lands Commission shall fix the value of tide or submerged lands owned by the State and shall notify in writing the legislative body of its determination . . . ." (Brackets added)

Pursuant to the above-mentioned resolution, the Council of the City of Belvedere proceeded with the necessary publications and proceedings to annex the territory, but failed to give notice to the State Lands Commission of the pendency of the proposed annexation.

This office has now been requested by the City Attorney of the City of Belvedere to execute a waiver of the notice implicitly required by Section 35313.1 referred to above. It is the opinion of the City Attorney of the City of Belvedere that such Waiver of Notice will cure any defects that might exist in its now completed annexation proceeding relative to the lands herein concerned.

The appraisal required in Section 35313.1 of the Government Code is only relevant when there is a protest against the proposed annexation, which protest is evaluated on the basis of the value of the protesting ownerships. In the instant case, there was no protest against the annexation. Consequently the valuation of the State lands does not appear to have been material, and the Waiver of Notice appears appropriate in the absence of any grounds for objection by the Commission.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO EXECUTE AN APPROPRIATE WAIVER OF STATUTORY NOTICE AFFECTING THE CITY OF BELVEDERE'S ANNEXATION OF PORTIONS OF MIDDLE AND EAST CANALS, MARIN COUNTY.